

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

FILED  
KENNETH J. SPYGLY  
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UNITED STATES OF AMERICA *ex rel.*  
MICHAEL SAUER,

Relator,

CIVIL ACTION NO. C1-00-0251  
J. Spiegel

v.

**FILED UNDER SEAL**

BROOKSIDE EXTENDED CARE, INC.,  
*et al.*,

Defendant(s)

**THE GOVERNMENT'S NOTICE OF ELECTION TO  
DECLINE INTERVENTION**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision **not to intervene** in this action at this time.

Although the United States declines to intervene, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id.

Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its

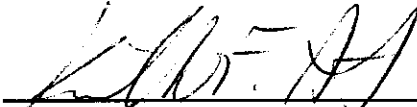
right to order any deposition transcripts and to intervene in this action, for good cause, at a later date.

Finally, the United States requests that only the complaint, this notice, and the Court's Order be unsealed and served upon the defendant. All other contents of the Court's file in this matter (including, but not limited to, any applications filed by the United States for an extension of the sixty-day investigative period or for any other reason, oppositions filed by the United States in response to the relator's motions, reply briefs, memoranda, and supporting documents) should remain under seal and not be made public or served upon the defendant.

A proposed order accompanies this notice.

Respectfully submitted,

GREGORY G. LOCKHART  
United States Attorney



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**ORDER**

The United States having declined to intervene in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules as follows:

IT IS ORDERED that,

1. the complaint be unsealed and served upon the defendant by the relator;
2. all other contents of the Court's file in this action remain under seal and not be made public or served upon the defendant, except for this Order and The Government's Notice of Election to Decline Intervention, which the relator will serve upon the defendant only after service of the complaint;
3. the seal be lifted as to all other matters occurring in this action after the date of this Order;
4. the parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The

United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time;

5. all orders of this Court shall be sent to the United States; and that

6. should the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval.

IT IS SO ORDERED,

This \_\_\_\_ day of \_\_\_\_\_, 2003

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UNITED STATES DISTRICT JUDGE

or

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UNITED STATES MAGISTRATE JUDGE